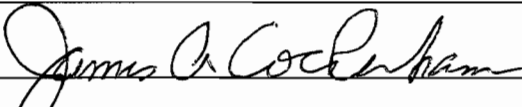


PROBATE INITIATION POLICY AND ADMINISTRATIVE PROCEDURES

Effective Date: October 15, 2007

Signature: 

I. PURPOSE

The purpose of this Probate Initiation Policy and Administrative Procedures is to provide guidance on when AHCCCS will petition the court to acquire the powers and undertake the duties and liabilities of a Personal Representative of a Decedent; and, to provide guidelines in regard to specific actions and duties as the Personal Representative.

II. AUTHORITY

A.R.S. § 14-1102 through 14-3971

AHCCCS retains sole ownership of these policy and administrative procedures and retains decision-making authority regarding the program operations. The TPL Contractor is required to follow this policy and they are not authorized to make changes to the policy. A copy of this document is maintained in the AHCCCS Estate Recovery Program Operations Manual which is utilized by the TPL Contractor to conduct its day-to-day operations of the Estate Recovery Program.

III. DEFINITIONS

AHCCCS

A state agency, doing business as Arizona Health Care Cost Containment System (AHCCCS) as defined by A.R.S. § 36-2901. This agency is composed of the administration, contractors, and other components. All are affiliated with the provision of health care services to eligible persons, within the jurisdiction of the State of Arizona.

ALTCS

Arizona Long Term Care System (ALTCS), is a program under AHCCCS that delivers long term, acute and behavioral health care services to eligible members, as authorized by A.R.S. § 36-2931 et seq. The ALTCS program is for aged (aged 65 and over), blind, physically disabled, or developmentally disabled who need ongoing services at a nursing facility level of care.

Decedent

An AHCCCS member, who at age 55 or older, on or after January 1, 1994, was enrolled in ALTCS and who has died.

Heir

Heirs, except as controlled by A.R.S. § 14-2711, means persons, including the surviving spouse and the state, who are entitled under the statutes of intestate succession to the property of a Decedent.

Multiple Listing Service

A database which allows real estate brokers representing sellers under a listing contract to widely share information. The purpose of the Multiple Listing Service (MLS) is to enable the efficient distribution of information so a real estate agent may search the system and retrieve information about all homes for sale in a given area or price range, whether under a listing contract by that agent's brokerage or by all participating brokers.

Outside Legal Counsel

An independent legal entity that the TPL Contractor engages to provide ongoing legal advice in opening, administration, and closing probate. The current Outside Legal Counsel is the firm of Jaburg & Wilk, P.C. 3200 North Central Avenue Suite 2000, Phoenix, AZ 85012.

Personal Representative

Personal Representative includes executor, administrator, successor Personal Representative, special administrator and persons who perform substantially the same function under the law governing their status.

Personal Representative's Agent

A person, or entity, who acts on behalf of the Personal Representative. The current Personal Representative's Agent for AHCCCS is Health Management Systems, Inc.

TPL Contractor

The entity with which AHCCCS contracts to conduct its Estate Recovery Program. The current TPL Contractor is Health Management Systems, Inc.

IV. BACKGROUND

- A. Upon the death of a person, their separate property and their share of community property devolves to the persons to whom the property is devised by their last will; or to those indicated as substitutes for them in cases involving lapse, renunciation or other circumstances affecting the devolution of testate estates; or in the absence of testamentary disposition to Heirs, or to those indicated as substitutes for them in cases involving renunciation or other circumstances affecting the devolution of intestate estates. No proceeding to enforce a claim against the estate of a Decedent

or his successors may be revived or commenced before the appointment of a Personal Representative. Whether the proceedings are formal or informal, persons who are not disqualified have priority for appointment in the following order:

1. The person with priority as determined by a probated will include a person nominated by a power conferred in a will.
2. The surviving spouse of the Decedent who is a devisee of the Decedent.
3. Other devisees of the Decedent.
4. The surviving spouse of the Decedent.
5. Other Heirs of the Decedent.
6. If the Decedent was a veteran or the spouse or child of a veteran, the department of veterans' services.
7. Forty-five days after the death of the Decedent, any creditor.
8. The public fiduciary.

B. In the majority of estate cases the family will open probate, sell the Decedent's property, and then distribute the estate proceeds. AHCCCS will generally be paid as a "creditor" of the estate.

C. There is a two-year statute of limitations for filing a claim against an estate, and AHCCCS' right to estate recovery will be adversely affected if probate is not initiated. In certain circumstances, AHCCCS may authorize the Outside Legal Counsel to petition the court to allow AHCCCS to acquire the powers and undertake the duties and liabilities of a Personal Representative of a Decedent.

V. EVALUATE IF AHCCCS WILL PETITION THE COURT TO BE APPOINTED PERSONAL RESENTATIVE.

A. AHCCCS may authorize the Outside Legal Counsel to petition the court to be appointed the Personal Representative if the following conditions are met:

1. The Decedent's estate qualifies for estate recovery pursuant to the provisions of the AHCCCS Estate Recovery Program Policy and Administrative Procedures;
2. The Decedent has been dead for at least six months;
3. There are no known probate open under the Decedent's name;
4. Decedent's real property is titled in his/her name;
5. If the primary estate asset is real property, the real property has an estimated net value (estimated sales value of the property less:

outstanding taxes, administrative and selling expenses, and known loans) of at least \$50,000.

6. The TPL Contractor has issued a Notice of Intent to File a Claim against the Estate to any known Heirs, and to:
 - a. any known family member, or other "contact" persons, maintained in PMMIS or ACE,
 - b. the property address,
 - c. any family member or friends that were identified when the TPL Contractor contacted the nursing facility, if the member died while residing in a nursing facility.
7. If an Heir is identified and located, the TPL Contractor has contacted this individual and request that they take action to be appointed as the Personal Representative for the estate, and the Heir refused to be appointed the Personal Representative. And,
8. The TPL Contractor has submitted a case review including the preliminary findings to the Outside Legal Counsel; the Outside Legal Counsel believes the case will meet the minimal dollar thresholds identified herein; and, the TPL Contractor has submitted to AHCCCS the completed case review including the findings and the recommendation of the Outside Legal Counsel to proceed.

B. The TPL Contractor case review and findings are to be approved in writing by both the Estate Recovery Program Manager and the TPL Administrator, prior to petitioning the court to be appointed Personal Representative. If AHCCCS approves, the TPL Contractor will authorize the Outside Legal Counsel to proceed to open probate and act as legal counsel to AHCCCS in its capacity as the Personal Representative.

C. After AHCCCS' approval to be appointed Personal Representative, the letters of appointment as the Personal Representative should require court approval of all sales.

VI. AFTER AHCCCS IS APPOINTED PERSONAL REPRESENTATIVE BY THE COURT

- A. The realtor, selected by the TPL Contractor, will usually sell the property but there may be circumstances that the property will be sold directly by the Personal Representative.
- B. Under the direction of the TPL Contractor, the real estate agent will enter the property and take the following actions:
 1. Go through the personal effects in the home and forward to the Outside Legal Counsel any documents that may be important (wills, life insurance policies, etc.) or indicate the existence or location of an Heir.

2. Conduct an informal inspection of the property to determine if any emergency maintenance is required to prevent loss in property value during the probate process. Only maintenance that must occur without delay to prevent a reduction in property value during the time the property is in probate will be contemplated.
 3. Remove trash and personal items of insignificant value from the property.
 4. Secure the property by changing the locks and, if necessary, boarding up broken windows or other possible means of entry.
 5. Inventory the contents of the home of any value (furniture, etc.). A copy of the inventory will be provided to the Outside Legal Counsel and to AHCCCS.
 6. The realtor will be compensated for these tasks from the proceeds of the estate based on an agreed hourly rate and/or submitted receipts. This compensation is in addition to any real estate commission earned from the sale of the real property.
- C. The TPL Contractor is required to continue to try to locate Heirs to the estate. To accomplish this, the Outside Legal Counsel will use the documents provided as a result of the review of personal effects described above and through the publication of notice. AHCCCS will permit, and encourage, other family member to be substituted as Personal Representative where:
1. the family member desires to be appointed;
 2. the family member is capable of properly conducting the affairs of the estate;
 3. the AHCCCS claim and estate assets can be maintained.
- D. The Outside Legal Counsel will publish the formal notice to creditors. The responses to this notice will ultimately determine what claims exist against the estate.
- E. The Outside Legal Counsel will perform the duties generally required of the attorney for the Personal Representative including meetings with the TPL Contractor, AHCCCS or other interested parties, correspondence, investigation and analysis of relevant legal and factual issues, drafting of pleadings, court filings and discovery papers, legal research, court appearances, preparation of contracts and legal instruments, and other tasks as may be appropriate.
- F. The realtor will present all offers on properties to the TPL Contractor who will forward them to AHCCCS with a recommendation to accept or decline the offer and, written documentation of the reason for the recommendation. AHCCCS written acceptance of the offer is required for

the sale to proceed. After AHCCCS acceptance, the Outside Legal Counsel will coordinate the approval of the probate court.

- G. The Outside Legal Counsel will receive the proceeds of the sale of the real property and the sale or disposition of any other personal property, deposit those proceeds in their trust accounts, and use those proceeds to satisfy claims against the estate in accordance with federal and Arizona law. After satisfying the claims that are legally ahead of the AHCCCS claim, the Outside Legal Counsel will send a check from the estate up to the amount of the AHCCCS claim to the TPL Contractor for processing as an estate case. The Outside Legal Counsel will distribute any remainder to claimants with lower standing than the AHCCCS claim. If there will be a delay in disbursing the funds, the Outside Legal Counsel should consider depositing the funds into an interest bearing account in the name of the Decedent.

VII. TPL CONTRACTOR CASEWORK

A. DATA SECURITY

- 1. All files will be kept in locked filing cabinets located in the TPL Contractors office.

B. CONTRACT WITH A REALTOR(S) FOR PROPERTY VALUATIONS AND THE SALE OF REAL PROPERTY

- 1. Usually, but not always, when AHCCCS is appointed the Personal Representative the real property in the Decedent's estate will be sold through a realtor using the multiple listing services (MLS). The use of a realtor has the following benefits:
 - a. The realtor recommends a listing price that should reflect the current market value of the property. The realtor will utilize their standard and accepted processes to establish the offer price for the property. AHCCCS will approve the recommended asking price in writing prior to listing the property for sale.
 - b. Ethics is shown through appearance and practice. A realtor ensures the price received is the result of an open and competitive process and, as such, the market sets the real value of the property.
 - c. There are no billable hours for real estate functions. A realtor will take their fees in the form of commission upon sale of the home; typical sale commissions ranges from 5% to 10%. The TPL Contractor will try to minimize these costs, and will work with AHCCCS to establish a reasonable maximum rate at which these services will be provided.

- d. The realtor will provide estimated market values prior to opening probate that will be used to estimate the net value of the property (estimated sales value of the property less: outstanding taxes; administrative and selling expenses; and known loans.)
 2. Under the direction of the TPL Contractor, the retained real estate agency will perform the following tasks at no fee or cost prior to opening probate:
 - a. Perform Comparative Market Analysis (CMA's) for all properties that are being considered for probate.
 - b. Supply the TPL Contractor with photographs of all properties that are being considered for probate.
 3. After being appointed the Personal Representative, and if AHCCCS authorizes the use of a realtor to sell the property, under the direction of the TPL Contractor, the retained real estate agency will perform the following tasks for an agreed upon sale commission to be paid out of the sales proceeds at the close of the sale:
 - a. Market, including listing on the MLS, and show properties.
 - b. Forward all credible offers to the TPL Contractor and, if requested, the Outside Legal Counsel.
 - c. Provide any follow-up necessary to execute a court approved sale.
- C. EVALUATE IF AHCCCS WILL PETITION THE COURT TO BE APPOINTED PERSONAL REPRESENTATIVE
1. Verify the Decedent's estate qualifies for estate recovery:
 - a. Follow procedures outlined in the AHCCCS Estate Recovery Program Policy and Administrative Procedures to verify that the Decedent's estate qualifies for estate recovery.
 - b. In cases where an Heir is identified and located, the TPL Contractor will contact this individual and request that they take action to be substituted as the Personal Representative for the estate.
 - c. If an Heir appears to qualify for an undue hardship, or other exemption, this initial probate review process will be terminated and the undue hardship, or other exemption, will be evaluated pursuant to the provisions of the AHCCCS Estate Recovery Program Policy and Administrative Procedures.

2. Verify that the Decedent has been dead for at least six months:
 - a. Verify the date of death (DOD) on the case tracking software, or the AHCCCS PMMIS or ACE systems.
 - b. For Decedents that have been dead less than six months:
 - i. If a Case does not already exist on case tracking software, create a new Case file, as outlined in the AHCCCS Estate Recovery Program Policy and Administrative Procedures.
 - ii. The Case should be tagged for future follow-up by the caseworker immediately after the sixth month anniversary of the Decedent's death.
 - iii. Verify that a Demand for Notice was already filed with the appropriate county clerk of court, if not; follow procedures outlined in the AHCCCS Estate Recovery Program Policy and Administrative Procedures for doing so.
3. There must be no known probate open under the Decedent's name:
 - a. Conduct an electronic search via the internet of the website of the county clerk of court to see if any proceedings have already been initiated. If an electronic search is not available, call the appropriate county probate clerk directly.
 - b. If an estate is already open, verify that an AHCCCS Demand for Notice has been filed with the appropriate county clerk of court, if not follow the procedures outlined in the AHCCCS Estate Recovery Program Policy and Administrative Procedures for doing so.
 - c. If a probate proceeding was previously opened and has already closed (i.e., if a Summary Administration was completed), the TPL Contractor will make a recommendation to AHCCCS if legal action should be taken, or to close the estate recovery.
4. Decedent must have real property titled in his/her name:
 - a. Title to the real property must be held solely in name of Decedent. Title held jointly with right of survivorship does not qualify for estate recovery. The AHCCCS eligibility records should contain ownership information. Additional resources for researching title include the county recorder's office, and/or the county property assessor's office.
 - b. If title has changed since the member became eligible for ALTCS services, the TPL Contractor will make a recommendation to AHCCCS if legal action should be taken, or to close the estate recovery. And,
 - c. Identify any existing loans and tax lien(s) against the property through the use of a preliminary title report.

5. If the primary estate asset is real property, the real property must have an estimated net value (estimated sales value of the property less: outstanding taxes; administrative and selling expenses; and known loans) of at least \$50,000:
 - a. Obtain a Comparative Market Analysis (CMA's) from the contracted Realtor,
 - b. Utilize online resources (i.e. zillow.com) which may provide additional indications of the property value,
 - c. Obtain picture documentation of the property in its current state, and
 - d. Estimate the amount of money required: to secure and maintain the property, obtain an appraisal of the property value (if necessary), pay delinquent real estate taxes, and the amount of any other out-of-pocket expenses. The case review the TPL Contractor submits to the Outside Legal Counsel and AHCCCS will estimate these costs and describe how each will be paid. Options for payment include: the realtor, the Outside Legal Counsel, or the TPL Contractor advancing the costs to be reimbursed from the proceeds of the estate in addition to any real estate commission, legal fees, or contingency fee, or deferring certain expenses (e. g. property taxes) until the sale of the property is complete and making payment directly from the proceeds.
6. After completing 1 through 5 above the TPL Contractor should complete the "TPL Contractor Probate Recommendation" form (EXH 1) and forward it to AHCCCS for approval. If AHCCCS agrees to become the Personal Representative the TPL Contractor, or the Outside Legal Counsel, should:
 - a. complete the "HMS Petition for Formal Probate of Will and Appointment of Personal Representative" Form PB-113 (EXH 2); or the "Petition for Adjudication of Intestacy, Determination of and Appointment of Personal Representative" Form PB-114 (EXH 3);
 - b. complete the "HMS Order of Personal Representative and Acknowledgement and information to Heirs" Form PM-111 (EXH 4); and
 - c. complete the "HMS Acceptance of Appointment as Personal Representative" Form PB-107 (EXH 5)
 - d. forward all of the completed forms to PERSONAL REPRESENTATIVE'S AGENT for signature. After signing, the forms will be returned to the Outside Legal Counsel for filing with the Superior Court.

D. AFTER OPENING PROBATE

1. The status of the case on case tracking software should be also changed to "Open-TPL Contractor Probating" as soon as a docket number is assigned to the case.
2. The TPL Contractor will require the Outside Legal Counsel to submit a monthly status report of all monthly case activity.
3. The TPL Contractor will monitor and track the Case using monthly reports from the Outside Legal Counsel until payment is received. The case tracking software will be updated every month with the information received from the Outside Legal Counsel.
4. If any additional Orders or Notices are required to be filed with the Superior court by the Personal Representatives, they should be completed by the TPL Contractor, or the Outside Legal Counsel, and forwarded to PERSONAL REPRESENTATIVE'S AGENT for signature. After signing, the forms will be retuned to the Outside Legal Counsel for filing with the Superior Court.
5. After opening Probate, the TPL Contractor, or the Outside Legal Counsel, should complete the "Inventory and Appraisement" Form PB-201 (EXH 6), and forward the form to PERSONAL REPRESENTATIVE'S AGENT for signature. After signing, the forms will be retuned to the Outside Legal Counsel for filing with the Superior Court.
6. After the sale of the property the TPL Contractor, or the Outside Legal Counsel, should complete:
 - a. If Probate is Formal:
 - i. the "Proposal for Distribution" (if required) Form PB-401 (EXH 7), and forward the form to PERSONAL REPRESENTATIVE'S AGENT for signature. After signing, the forms will be retuned to the Outside Legal Counsel for filing with the Superior Court;
 - ii. the "Petition for Approval of Final Account and for Decree of Settlement and Distribution of Estate" Form PB-509 (EXH 8), and forward the form to PERSONAL REPRESENTATIVE'S AGENT for signature. After signing, the forms will be retuned to the Outside Legal Counsel for filing with the Superior Court;
 - iii. the "Proposal for Final Discharge of Personal Representative" Form PB-511 (EXH 9), and

forward the form to PERSONAL REPRESENTATIVE'S AGENT for signature. After signing, the forms will be retuned to the Outside Legal Counsel for filing with the Superior Court;

- iv. the "Deeds or Instruments of Distribution" Form PB-403 (EXH 10), and forward the form to PERSONAL REPRESENTATIVE'S AGENT for signature. After signing, the forms will be retuned to the Outside Legal Counsel for filing with the Superior Court;

b. If Probate is Informal:

- i. the "Proposal for Distribution" (if required) Form PB-401 (EXH 7), and forward the form to PERSONAL REPRESENTATIVE'S AGENT for signature. After signing, the forms will be retuned to the Outside Legal Counsel for filing with the Superior Court;

- ii. the "Closing Statement" Form PB-502 (EXH 11), and forward the form to PERSONAL REPRESENTATIVE'S AGENT for signature. After signing, the forms will be retuned to the Outside Legal Counsel for filing with the Superior Court;

- iii. the "Application for Certificate of Registrar" Form PB-503 (EXH 12), and forward the form to PERSONAL REPRESENTATIVE'S AGENT for signature. After signing, the forms will be retuned to the Outside Legal Counsel for filing with the Superior Court; and

- iv. the "Deeds or Instruments of Distribution" Form PB-403 (EXH 10), and forward the form to PERSONAL REPRESENTATIVE'S AGENT for signature. After signing, the forms will be retuned to the Outside Legal Counsel for filing with the Superior Court.

- c. After all of these forms are received, and acted upon, by the Court the Probate process will be complete.

E. RECORDS RETENTION AND RECORD DISPOSITION

1. After all of the forms described in section D. above, are received, and acted upon, by the Probate Court they are to be included in the probate file.
2. After all of the forms have been received and included in the probate file, the completed file should be sent to the AHCCCS TPL Section for archiving.
3. The completed probate file will be archived by the TPL Section and later destroyed in accordance with the records retention policy of the Arizona State Library, Archives and Public Records - Records Management Division

TPL Contractor Probate Recommendation

EXH 1

Decedent's Name: _____
Decedent's AHCCCS #: _____
Decedent's Date of Death: _____
AHCCCS Lien Amount \$ _____

Decedent's Property Address:

Street: _____
City: _____
County _____
State _____

TPL Contractor's Recommendation

___ Open Probate

___ Do Not Open Probate

Recommendation Based on:

The Decedent's estate does/does not qualify for estate recovery:

a. The Decedent has/has not been dead for at least six months

b. There is/is not a probate open in the Decedent's name in _____ County:
How Verified: _____

c. Decedent's real property is/is not titled in his/her name.

Copy of County Assessors property report attached: O Yes O No

Copy of the Secretary of State title attached: O Yes O No

If the primary estate asset is real property, the real property has/does not have an estimated net value of at least \$50,000:

Estimated Market Value of the Real Property \$ _____

Attach documentation supporting valuation

Estimated Cost of sales \$ (_____)

Attach Schedule

Estimated Cost to secure Property until closing \$ (_____)

Attach Schedule

Estimated amounts of outstanding loans on the Property \$ (_____)

Attach Schedule

Estimated amounts of outstanding property taxes on the Property \$ (_____)

Attach Schedule

All other costs/expenses related to the Property \$ (_____)

Attach Schedule

Estimated Net Sales proceeds \$ _____

The TPL Contractor has issued a Notice of Intent to File a Claim against the Estate to any known Heirs, and to:

- a. any known family member, or other "contact" persons, maintained in PMMIS or ACE,
- b. the property address,
- c. any family member or friends that were identified when the TPL Contractor contacted the nursing facility, if the member died while residing in a nursing facility.

As a result of issuing the above Notice of Intent to File a Claim against the Estate, an Heir has/has not been identified. If an Heir has been identified, they are/are not willing to become the Personal Representative.

If an Heir is identified and located, the TPL contractor has contacted this individual and request that they take action to be appointed as the Personal Representative for the estate, and the Heir agreed/refused to be appointed the Personal Representative.

There are/are not other items to be considered by AHCCS prior to making the decision to be appointed Personal Representative - Attach Schedule

Submitted on behalf of Health Management Systems by:

_____, (title) _____ Date: _____

AHCCCS approves the TPL Contractor's recommendation of appointment of AHCCCS as the Personal Representative for the estate of _____, deceased:

_____, Estate Program Manager, Date: _____

_____, TPL Administrator, Date: _____

_____, Assistant Director DBF, Date: _____

EXH 2

[Attorney's Name, State Bar No.]
[Address]
[Phone Number]
Attorney for: _____

SUPERIOR COURT OF ARIZONA, _____ COUNTY

In the Matter of the Estate of _____

NO. _____

Deceased.

PETITION FOR FORMAL PROBATE
OF WILL AND APPOINTMENT
OF PERSONAL REPRESENTATIVE

1. This Petition is made by Arizona Health Care Cost Containment Systems ("AHCCCS"), who is interested in this Estate because AHCCCS is a creditor that is owed _____.

2. Decedent died on _____, 20____, at the age of ____ years.
At the time of death, decedent was domiciled in _____ in _____
County, State of _____.

3. The original/A certified copy, the original of which has been probated in _____,]
of decedent's Will, dated _____, 20____, [is filed with this Petition/is in the
possession of the Court].

4. To the best of Petitioner's knowledge, Decedent left surviving the following persons
who are the surviving spouse, children, heirs and devisees of decedent:

<u>Name and Address</u>	<u>Age</u> <u>(if minor)</u>	<u>Relationship</u> <u>To Decedent</u> <u>(Heir or Devisee)</u>
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5. Venue for this proceeding is in this county because decedent [was a domiciliary of/was not domiciled in Arizona and owned property located in] this county at the time of death.

6. [No Personal Representative for decedent's Estate has been appointed in this state or elsewhere./_____ has been appointed as Personal Representative for decedent's Estate in the State of_____.]

7. Petitioner has not received a demand for notice and is not aware of any demand for notice by any interested person of any proceedings concerning decedent in this state or elsewhere.

8. Petitioner believes that the Will, dated _____, 20____, was validly executed and is decedent's last Will and after the exercise of reasonable diligence, Petitioner is unaware of any instrument revoking the Will.

9. The time for formal probate and appointment has not expired under A.R.S. §14-3108 because [less than two years have passed since decedent's death./_____.]

10. Petitioner states that _____, of _____, City of _____, State of _____, has priority for appointment as Personal Representative under the Will pursuant to the provisions of A.R.S. §14-3203 because _____.

11. [Bond is not required of the Personal Representative under A.R.S. §14-3603 because the real property subject to this probate will be restricted. Petitioner's best estimate of the value of property owned by decedent and subject to the probate jurisdiction of the Court is as follows:

Personal property	\$_____
Real Property (less encumbrances thereon)	\$_____
Expected annual income of Estate	\$_____
TOTAL	\$_____]

Petitioner requests that the Court, after notice and hearing, issue a judicial Order which:

- (A) Makes the findings required by A.R.S. §14-3409, including a finding that decedent's Will dated _____, was validly executed, is decedent's last Will, and has not been revoked.
- (B) Admits said Will to probate.
- (C) Appoints _____ as Personal Representative of decedent's Estate [without bond/with such bond as may be required].

DATED this _____ day of _____, 20_____.

By _____
Darrin Shaffer, Account Executive Health
Management Systems, Inc., agent for
AHCCCS

STATE OF ARIZONA)
) ss.
County of Maricopa)

Darrin Shaffer, being duly sworn, states as follows:

That he is the Account Executive for Health Management Systems, Inc., agent for AHCCCS, that AHCCCS is the Petitioner in the foregoing Petition; and that the statements in the Petition are accurate and complete to the best of his knowledge and belief.

Darrin Shaffer, Account Executive Health
Management Systems, Inc., agent for
AHCCCS

SUBSCRIBED AND SWORN TO before me, the undersigned Notary Public, this ____
day of _____, 20____, by _____.

Notary Public
My Commission Expires:

[Law Firm]

By _____

EXH 3

FORM PB-114

[Attorney's Name, State Bar No.]
[Address]
[Phone Number]
Attorney for: _____

SUPERIOR COURT OF ARIZONA, _____ COUNTY

Matter of the Estate of _____

NO. _____

Deceased.

PETITION FOR ADJUDICATION
OF INTESTACY, DETERMINATION
OF HEIRS AND APPOINTMENT
OF PERSONAL REPRESENTATIVE

1. This Petition is made by _____, who is interested in this Estate because _____

2. Decedent died on _____, 20____, at the age of _____ years. At the time of death, decedent was domiciled in _____ County, State of _____.

3. Decedent left surviving the following persons who are the surviving spouse, children and heirs of decedent:

<u>Name and Address</u>	<u>Age</u> <u>(if minor)</u>	<u>Relationship</u> <u>To Decedent</u>
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4. Venue for this proceeding is in this county because decedent [was a domiciliary of/was not domiciled in this state and owned property located in] this county at the time of death.

5. [No Personal Representative for decedent's Estate has been appointed in this state or elsewhere./_____ has been appointed as Personal Representative for decedent's Estate in the State of _____]

6. Petitioner has not received a demand for notice and is not aware of any demand for notice by any interested person of any proceedings concerning decedent in this state or elsewhere.

7. After the exercise of reasonable diligence, Petitioner is unaware of any unrevoked testamentary instrument executed by decedent relating to property having a situs in this state.

8. Petitioner states that _____, of _____, City of _____, State of _____, has priority for appointment as Personal Representative pursuant to the provisions of A.R.S. § 14-3203 because _____. [There are no other persons having a prior or equal right to appointment./ The names, relationships and addresses of all parties having a prior or equal right to appointment under A.R.S. § 14 3203 are:

<u>Name</u>	<u>Relationship</u>	<u>Address</u>
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9. [Bond is not required of the Personal Representative under A.R.S. § 14-3603 because (all the heirs have filed signed Waivers of Bond. / _____.)]
[Bond is required of the Personal Representative. Petitioner's best estimate of the value of property owned by decedent and subject to the probate jurisdiction of the Court is as follows:

Personal property	\$ _____
Real property (less encumbrances thereon)	\$ _____
Expected annual income from the property	\$ _____
TOTAL	\$ _____

10. The time for formal probate and appointment has not expired under A.R.S. § 14-3108 because [less than two years have passed since decedent's death. / _____.]

Petitioner requests that the Court, after notice and hearing, issue a judicial Order which:

- (A) Makes the findings required by A.R.S. § 14-3409, including a finding that decedent died intestate.
- (B) Determines decedent's lawful heirs.
- (C) Appoints _____ as Personal Representative of decedent's Estate [without bond/with such bond as may be required].

DATED this ____ day of _____, 20____.

[Name of Petitioner]

STATE OF ARIZONA)
) ss.
County of _____)

_____, being duly sworn, states as follows:

That [he/she] is [the _____ of _____] the Petitioner in the foregoing Petition; and that the statements in the Petition are accurate and complete to the best of [his/her] knowledge and belief.

Petitioner

SUBSCRIBED AND SWORN TO before me, the undersigned Notary Public,
this ____ day of _____, 20____, by _____.

Notary Public

My Commission Expires:

[Law Firm]

By _____

EXHA

SUPERIOR COURT OF ARIZONA, MARICOPA COUNTY

In the Matter of the Estate of

NO. _____

Deceased.

ORDER TO PERSONAL
REPRESENTATIVE AND
ACKNOWLEDGEMENT AND
INFORMATION TO HEIRS

The best interest of this estate is of great concern to this Court. As Personal Representative, you are subject to the power of the Court. Therefore, to help avoid problems and to assist you in your duties, this Order is entered. You are required to be guided by this Order and to obey it.

Unless an interested party files a written request to the Court, this Court will not review or supervise your actions as Personal Representative. In Arizona, if you are a beneficiary of an estate, you are expected to protect your own interests in the estate. The Personal Representative is required to provide sufficient information to the beneficiary to permit the beneficiary to protect his or her interests. The Court may hold a Personal Representative personally liable and responsible for any damage or loss to the estate resulting from a violation of the Personal Representative's duties. The following is an outline of some of your duties as Personal Representative:

DUTIES OF THE PERSONAL REPRESENTATIVE

The duties of the Personal Representative are found in Chapter 3, Title 14 of the Arizona Revised Statutes (from now on called "A.R.S."). You are responsible for knowing and doing your duties according to these statutes. Some of the duties are:

1. GATHER, CONTROL AND MANAGE ESTATE ASSETS

As Personal Representative you have the duty to gather and control all assets that belonged to the decedent (the person who has died) at the time of his or her death. After the valid debts and expenses are paid, you have the duty to distribute any remaining assets according to the decedent's Will or, if there is no Will, to the intestate heirs of the decedent. As Personal Representative, you have the authority to manage the estate assets, but you must manage the estate assets for the benefit of those interested in the estate.

2. FIDUCIARY DUTIES

As Personal Representative you are a fiduciary. This means you have a legal duty of undivided loyalty to the beneficiaries and the creditors of the estate. You must be cautious and prudent in dealing with estate assets. As Personal Representative, the estate assets do not belong to you and must never be used for your benefit or mixed with your assets or anyone else's assets. Arizona law prohibits a Personal Representative from participating in transactions that are a conflict of interest between you, as Personal Representative, and you as an individual. Other than receiving reasonable compensation for your services as Personal Representative, you may not profit from dealing with estate assets.

3. PROVIDE NOTICE OF APPOINTMENT

Within thirty (30) days after your Appointment as Personal Representative, you must mail notice of your appointment to the heirs and devisees whose addresses are reasonably available to you. If your appointment is made in a formal proceeding, you need not give notice to those persons previously noticed of a formal appointment proceeding. See A.R.S. §14-3705.

4. PROVIDE NOTICE OF ADMISSION OF WILL TO PROBATE

Within 30 days of the Admission of the Will to informal probate, you must give written notice to all heirs and devisees of the Admission of the Will to probate, together with a copy of the Will. You must notify the heirs that they have 4 (four) months to contest the probate. See A.R.S. §14-3306.

5. MAIL COPIES OF THIS ORDER TO HEIRS AND DEVISEES

WITHIN 10 DAYS OF YOUR APPOINTMENT, YOU MUST MAIL A COPY OF THIS "ORDER TO PERSONAL REPRESENTATIVE AND ACKNOWLEDGMENT AND INFORMATION TO HEIRS" TO ALL THE HEIRS AND DEVISEES OF THE ESTATE, AND TO ANY OTHER PERSONS WHO HAVE FILED A DEMAND FOR NOTICE.

6. FILE PROOF OF COMPLIANCE

Within 15 days of your appointment as Personal Representative, you must file with the Court a notarized statement swearing that a copy of this Order was mailed to each devisee, to each heir in intestate (no will) estates and to any other persons who have filed a demand for notice.

7. PUBLISH NOTICE

After your appointment as Personal Representative, you must publish a notice once a week for 3 consecutive weeks in a Maricopa County newspaper of general circulation that announces your appointment as Personal Representative and tells creditors of the estate that unless they present their claims against the estate within the prescribed time limit, the claims will not be paid. In addition, you must mail a similar notice to all persons you know are creditors of the Estate. See A.R.S. §14-3801.

8. PROTECT ASSETS

You must immediately find, identify, and take possession of the estate assets and make proper arrangements to protect them. See A.R.S. §14-3709. All property must be retitled to show ownership in the name of the estate – such as “Estate of (decedent’s name), your name, as Personal Representative.” Do not put the estate assets into your name, anyone else’s name, joint accounts, trust accounts (“in trust for”), or payable on death (“POD”) accounts. Do not list yourself or any other person as joint owner or beneficiary on any bank accounts or other assets belonging to the estate. Do not mix any estate assets with your own assets or anyone else’s assets.

If your authority as Personal Representative has been limited by the Court, you must promptly protect the estate assets as ordered, and file a Proof of Restricted Assets with the Court. You may not sell, encumber, distribute, withdraw or otherwise transfer restricted assets without first obtaining permission from the Court.

9. DETERMINE STATUTORY ALLOWANCES

It is your responsibility to determine whether any individuals are entitled to statutory allowances under A.R.S. §§14-2402, 2403, and 2404. Statutory allowances include a homestead allowance, exempt property allowance, and a family allowance.

10. INVENTORY ASSETS

Within 90 days after your appointment as Personal Representative, you must prepare an inventory or list of the decedent’s probate assets and their values as of the date of death. See A.R.S. §14-3706. The inventory must be either (1) filed with the Court and mailed to all interested persons who request it, or (2) not filed with the Court, but mailed to all heirs and devisees and to other interested persons who have requested it.

11. STANDARD OF CARE

In administering estate assets, you must observe the standards of care applicable to a trustee, including the prudent investor act. See A.R.S. §14-7301 et. seq., and 14-7601 et seq.

12. KEEP DETAILED RECORDS

You must keep detailed records of all receipts and expenses of the estate. You are required to provide an accounting of your administration of the estate to all persons affected by the administration. See A.R.S. §14-3933.

13. PAY VALID DEBTS AND EXPENSES

You must determine which claims and expenses of the estate are valid and should be paid. You must provide to any creditor whose claims are not allowed prompt written notification they will not be paid or will not be paid in full. See A.R.S. §14-3806. To the extent there are enough assets in the estate, you are responsible for the payment of any estate debts and/or expenses you know about or can find out about. If there are not enough estate assets to pay all debts and expenses, you must determine which debts and expenses should be paid according to the law. See A.R.S. §14-3805. You may be personally liable if you pay a debt or expense that should not be paid.

14. PAY TAXES

It is your responsibility to determine that all taxes are paid and that all tax returns for the decedent and the estate are prepared and filed.

15. DISTRIBUTE REMAINING ASSETS

After payment of all debts or expenses of the estate, you must distribute estate assets as directed in the Will or, if there is not a Will, to the intestate heirs. If there are not enough assets in the estate to make the gifts as set forth in the Will, it is your responsibility to determine how

the distributions should be made as required by law. See A.R.S. §§14-3902 and 14-3907. You may be personally liable if you make an improper distribution of estate assets.

16. CHANGE OF ADDRESS

Until the probate is closed and you are discharged as Personal Representative, you must notify the Court in writing if you change your home or mailing address.

17. PAYMENT AS PERSONAL REPRESENTATIVE

As Personal Representative, you are entitled to reasonable compensation. See Maricopa County Local Rule 5.7. Arizona statutes do not designate percentage fees for your work or say how much a Personal Representative should be paid. You must keep receipts to prove out-of-pocket expenses. In determining whether a fee is reasonable, the following factors will be considered:

- a. The time required (as supported by detailed time records), the novelty and difficulty of the issues involved, and the skill required to do the service properly;
- b. The likelihood that your acceptance as Personal Representative will preclude other employment;
- c. The fee normally charged in the area for similar services;
- d. The nature and value of estate assets, the income earned by the estate, and the responsibilities and potential liability assumed by you as Personal Representative;
- e. The results obtained for the estate;
- f. The time limitations imposed by the circumstances;

- g. The experience, reputation, diligence and ability of the person performing the services;
- h. The reasonableness of the time spent and service performed under the circumstances; and,
- i. Any other relevant factors.

7. COURT INVOLVEMENT

Usually, to reduce estate expenses, estates are administered and estate claims and expenses are paid, including the fees to the attorney and Personal Representative, with little Court involvement. The Court does not supervise probates or the conduct of a Personal Representative. However, if any interested party believes that the estate has not been properly handled or that the fees charged by the attorney or Personal Representative are not reasonable under the circumstances, that party may require that the Court review the accounting for the Personal Representative's administration of the estate. Any additional Court involvement may result in additional delay and expenses. If appropriate, the Court may assess the additional expense against the estate or the non-prevailing party.

8. CLOSE THE ESTATE

After distribution of the estate has been completed, the estate must be closed, either formally or informally. In an informal closing, a copy of the Closing Statement is filed with the Court and must be sent to all persons receiving a distribution from the estate. See A.R.S. §14-3933. For a formal closing, see A.R.S. §§14-3931 and 14-3932. Usually, the Court expects the estate to be completely administered and closed within six (6) months to one (1) year of the initial appointment of the Personal Representative.

WARNING. This is only an outline of some of your duties as Personal Representative. This Order does not describe all of your duties and is not a substitute for obtaining professional legal advice. This is a general outline of your duties only. If you have any questions as Personal Representative, before taking any action you should contact an attorney who handles probate estates to find out what to do.

Failure to obey a Court Order and the statutory provisions relating to this estate may result in your removal as Personal Representative and other penalties. In some circumstances, you may be held in contempt of court, punished by confinement in jail, fine or both. In addition, if you violate any of your fiduciary duties, you could be held personally liable for any losses for which you are responsible.

The Superior Court of Arizona in Maricopa County, Self-Service Center, has forms, instructions and procedures to help you with the Probate of an Estate, and has a list of lawyers who can give you legal advice, and can help you on a task-by-task basis for a fee. The Self-Service Center is located at 101 West Jefferson, 4th Floor, East Court Building, Phoenix, Arizona, or 222 East Javelina, 1st Floor, Mesa, Arizona or the same information is available on the Internet at:

<http://www.maricopa.gov/supcrt/ssc/sschme/html>.

DATED this ____ day of _____, 20____.

Judge or Special Commissioner

ACKNOWLEDGMENT

The undersigned acknowledges receiving a copy of this order and agrees to be bound by its provisions, whether or not he or she read it before signing, as long as Arizona Health Care Cost Containment Systems, through its authorized agent, Health Management Systems, Inc., by Darrin Shaffer, Account Executive, is Personal Representative.

Personal Representative, AHCCCS
By Darrin Shaffer, Account Executive for
Health Management Systems, Inc., agent for

Date

Arizona Health Care Cost Containment System

EHX S

[Attorney's Name, State Bar No.]

[Address]

[Phone Number]

Attorney for:

SUPERIOR COURT OF ARIZONA, _____ COUNTY

In the Matter of the Estate of

NO.

Deceased.

ACCEPTANCE OF APPOINTMENT AS
PERSONAL REPRESENTATIVE

STATE OF ARIZONA)
) ss.
County of _____)

Arizona Health Care Cost Containment Systems ("AHCCCS"), through its authorized agent, Health Management Systems, Inc., being duly sworn, deposes and says that AHCCCS hereby accepts the duties of Personal Representative of the Estate of the above-named decedent and do solemnly swears that AHCCCS will perform, according to law, the duties of such fiduciary.

DATED this ____ day of _____, 20____.

ARIZONA HEALTH CARE COST
CONTAINMENT SYSTEMS

By _____
Darrin Shaffer, Account Executive Health
Management Systems, Inc., agent for
AHCCCS

SUBSCRIBED AND SWORN TO before me, the undersigned Notary Public, this ____
day of _____, 20____, by _____.

Notary Public

My Commission Expires:

[Law Firm]

By

EXH 6

[Attorney's Name, State Bar No.]

[Address]

[Phone Number]

Attorney for:

SUPERIOR COURT OF ARIZONA, _____ COUNTY

In the Matter of the Estate of

NO.

Deceased.

INVENTORY AND
APPRAISEMENT

Arizona Health Care Cost Containment Systems, through its authorized agent Health Management Systems, Inc., Personal Representative of the above Estate, states that the Inventory annexed hereto as Exhibit A contains a true statement of all the property owned by decedent at the time of decedent's death which has come to the knowledge of the Personal Representative and is subject to probate; indicates the fair market value of the property as of the date of decedent's death and its nature as separate or community; and discloses the type and amount of all encumbrances relating to each item. [The names and addresses of the appraisers and the items appraised by each are as follows:

Name

Address

Item No.

DATED this ____ day of _____, 20__.

ARIZONA HEALTH CARE COST
CONTAINMENT SYSTEMS

By _____
Darrin Shaffer, Account Executive, Health Management Systems,
Inc., authorized agent for AHCCCS

INVENTORY (EXHIBIT A)

Real Property

Value

Encumbrances

Community Property

Separate Property

Total Real Property

Personal Property

Community Property

Separate Property

Total Personal Property

Total Property of Decedent

EXH 7

FORM PB-401

[Attorney's Name, State Bar No.]

[Address]

[Phone Number]

Attorney for:

SUPERIOR COURT OF ARIZONA, __ __ COUNTY

In the Matter of the Estate of

NO.

Deceased.

PROPOSAL FOR DISTRIBUTION

The undersigned Personal Representative, in order to close this Estate, proposes the following distribution of the property in the Estate:

Proposed Distributee

Assets

If your objection to the proposed distribution in writing is not received by the undersigned within thirty days after mailing or delivering this proposal, your right to object will terminate.

DATED this __ day of __, 20__.

[Name of Personal Representative]

[Address]

[Law Firm]

By _____

FORM PB-509

[Attorney's Name, State Bar No.]

[Address]

[Phone Number]

Attorney for:

SUPERIOR COURT OF ARIZONA, _____ COUNTY

In the Matter of the Estate of _____

NO. _____

Deceased.

PETITION FOR APPROVAL
OF FINAL ACCOUNT OF
PERSONAL REPRESENTATIVE
AND FOR DECREE OF SETTLEMENT
AND DISTRIBUTION OF ESTATE

Petitioner alleges that:

1. Petitioner was appointed on _____, _____, _____, as Personal Representative of this Estate, and thereafter qualified and accepted.
2. Petitioner has published notice to creditors and the time for presenting claims that arose prior to the death of decedent has expired.
3. An Inventory and Appraisement has been prepared and either filed or served in compliance with A.R.S. §14 3706.
4. There are no pending proceedings against the Estate to enforce the payment of claims.
5. All claims against the Estate, all expenses of administration thus far incurred and all taxes and claims that have accrued against the Estate have been paid.
6. Attached hereto as Exhibit A is a Final Account of all property received during the accounting period from _____, _____, to _____, 20____, all property distributed and disbursed during the period and all property on hand at the end of the period.
7. Attached hereto as Exhibit B is a Schedule of Distribution naming the proposed distributees and the property each is entitled to receive according to [the laws of intestate succession/decedent's Will].

Petitioner requests that, after notice and hearing, the Court issue a judicial Order which:

- (A) Approves the Final Account.

(B) Decrees the distribution of the property of the Estate in accordance with the Schedule of Distribution.

DATED this ____ day of _____, 20__.

[Name of Petitioner]
[Address]

STATE OF ARIZONA)
) ss.
County of _____)

_____, being duly sworn, states as follows:

That [he/she] is [the _____ of _____] the Petitioner in the foregoing Petition; and that the statements in the Petition are accurate and complete to the best of [his/her] knowledge and belief.

Petitioner

SUBSCRIBED AND SWORN TO before me this ____ day of _____,
20__, by _____.

Notary Public

My Commission Expires:

[Law Firm]

By

EXH 9

FORM PB-511

[Attorney's Name, State Bar No.]
[Address]
[Phone Number]
Attorney for:

SUPERIOR COURT OF ARIZONA, ____ COUNTY

In the Matter of the Estate of

NO.

Deceased.

PETITION [FOR APPROVAL
OF SUPPLEMENTAL ACCOUNT
OF PERSONAL REPRESENTATIVE
AND] FOR FINAL DISCHARGE OF
PERSONAL REPRESENTATIVE

Petitioner alleges that:

1. An Order Approving Final Account of Personal Representative and Decree of Settlement and Distribution of Estate was entered in these proceedings on _____, 20__.

2. Attached hereto as Exhibit A is a Supplemental Account for the period from _____, 20__, to _____, 20__.

3. Petitioner has fully distributed the property of the Estate to the persons entitled thereto under the above Decree of Settlement and Distribution by delivery of possession or proper transfer documents, as evidenced by receipts or copies of other documents filed with the Court.

Petitioner requests that the Court issue a judicial Order which:

- [(A) Approves the Supplemental Account.]
- (B) Discharges the Personal Representative from further claim or demand of any interested person.
- (C) Releases the surety or sureties of the Personal Representative from any liability to be hereafter incurred, and releases any cash bond or other security given by the Personal Representative.

DATED this ____ day of _____, 20__.

[Name of Petitioner]

EXH 10

FORM PB-403

[Attorney's Name, State Bar No.]

[Address]

[Phone Number]

Attorney for:

SUPERIOR COURT OF ARIZONA, _____ COUNTY

In the Matter of the Estate of _____

NO. _____

Deceased.

[INSTRUMENT/DEED] OF
DISTRIBUTION

The undersigned Personal Representative, in order to make distribution of the property of this Estate in compliance with Title 14 of Arizona Revised Statutes, hereby assigns, transfers and releases to _____, a distributee of the Estate, whose address is _____, all right, title and interest of decedent in and to the following described property:

DATED this ____ day of _____, 20__.

[Name of Personal Representative]

[Address]

STATE OF ARIZONA)

) ss.

County of _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by

_____, as Personal Representative of the Estate.

Notary Public

My Commission Expires:

By

EXH 11

FORM PB-502

[Attorney's Name, State Bar No.]
[Address]
[Phone Number]
Attorney for:

SUPERIOR COURT OF ARIZONA, ____ COUNTY

In the Matter of the Estate of

NO.

CLOSING STATEMENT

Deceased.

The undersigned Personal Representative states:

1. The undersigned was appointed as Personal Representative of this Estate on _____, 20____, more than four months prior to this Statement.

2. The undersigned has determined that the time limit for presentation of creditor's claims has expired.

3. The Estate has been fully administered by making payment, settlement or other disposition of all claims that were presented, expenses of administration, and all taxes and claims that have accrued against the Estate [, except as specified below: _____

_____]

4. All of the assets of the Estate have been distributed to the persons entitled thereto.

5. A copy of this Statement has been sent to all of the distributees of the Estate [and to all creditors or other claimants of whom the undersigned is aware whose claims are neither paid nor barred].

6. The undersigned has furnished a full account in writing of the administration of the Estate to the distributees whose interests are affected thereby, including guardians ad litem, conservators and guardians.

[7. As to any claim listed above as undischarged, the Estate has been distributed subject to possible liability, with the agreement of the distributees, or the following arrangements have been made to accommodate outstanding liabilities: _____

_____]

DATED this _____ day of _____, 20____.

[Name of Personal Representative]
[Address]

STATE OF ARIZONA)
)ss.
County of _____)

_____, being duly sworn, states as follows: That [he/she] is the [_____ of _____, the] Personal Representative for the above Estate; and that the statements in the Closing Statement are accurate and complete to the best of [his/her] knowledge and belief.

Personal Representative

The foregoing Closing Statement was subscribed and sworn to before me this _____ day of _____, 20____, by _____.

Notary Public

My Commission Expires:

[Law Firm]

By _____

Notary Public

My Commission Expires:

[Law Firm]

By